

Message Text

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ACTION EA-10

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C O R R E C T E D C O P Y (ADD LONDON AS INFO ADDEE)

EO 11652: N/A

TAGS: EALR, EMIN, ENRG, EINV, AS

SUBJ: HIGH COURT RULES PMA ACT INVALID

1. SUMMARY: HIGH COURT RULES PMA ACT "INVALID" ON PROCEDURAL GROUNDS. CONNOR REACTS WITH ANNOUNCEMENT OF CONTINGENCY PLANS TO CIRCUMVENT DECISION AND VOWS TO REINTRODUCE BILL. PMA'S LIMITED ACTIVITIES TO DATE MAINLY INVOLVE DISPLACING FOREIGN COMPANIES AS PART-OWNERS OF LOCAL PROJECTS. LIBERAL-COUNTRY PARTIES AND INDUSTRY OPPOSITION TO PMA REMAINS ADAMANT. HOWEVER, COURT DECISION MAY BE ONLY MINOR SET-BACK FOR GOA, WHICH EVIDENTLY CAN CONTINUE TO OPERATE AS THOUGH PMA WERE STILL IN BUSINESS. ALSO, DECISION SEEMS TO INDICATE THAT SUBSTANCE OF

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ACT WAS CONSTITUTIONAL. END SUMMARY.

2. HIGH COURT RULED JUNE 24 THAT PETROLEUM AND MINERALS AUTHORITY ACT PASSED BY JOINT SITTING OF PARLIAMENT IN AUGUST 1974 IS "INVALID". IN 4 TO 2 DECISION ON CASE BROUGHT BY NON-LABOR STATE GOVERNMENTS, COURT RULED THAT ACT WAS NOT LEGALLY PASSED SINCE COMPLEX CONSTITUTIONAL REQUIREMENTS FOR JOINT SITTING ENACTMENT WERE NOT SATISFIED. COURT'S DECISION DID NOT ADDRESS ITSELF TO CONSTITUTIONALITY OF ACT'S SUBSTANCE. ACT CREATED GOA'S PETROLEUM AND MINERALS AUTHORITY (PMA) AND EMPOWERED IT TO EXPLORE FOR AND DEVELOP PETROLEUM AND MINERAL RESOURCES AND TO HELP IMPLEMENT GOA POLICIES OF INCREASING AUST. OWNERSHIP OF SUCH LOCAL RESOURCES.

3. MINERALS AND ENERGY MINISTER CONNOR, WHO FATHERED PMA ACT, IMMEDIATELY RESPONDED BY ANNOUNCING CONTINGENCY PLANS TO ENSURE THAT THE PMA'S WORK WILL CONTINUE DESPITE RULING AND VOWING THAT ACT WILL BE PROMPTLY REINTRODUCED. CONNOR REVEALED THAT THE PETROLEUM AND MINERALS COMPANY OF AUST., WHICH GOA ESTABLISHED LAST FEBRUARY, WILL ASSUME PMA'S EXISTING COMMITMENTS AND PLEDGED THAT GOVERNMENT WILL HONOR PMA'S OBLIGATIONS, "FINANCIAL AND OTHERWISE". OPPOSITION LEADER FRASER HAS INDICATED THAT LIBERAL AND COUNTRY PARTIES WILL AGAIN SEEK TO REJECT REINTRODUCED BILL IN SENATE.

4. EMBASSY COMMENT: PMA HAS BEEN ONE OF CONNOR'S MOST CONTROVERSIAL PROJECTS, EVER SINCE HE INTRODUCED BILL TO CREATE IT IN EARLY 1973. AFTER TWO REJECTIONS BY SENATE, BILL BECAME CAMPAIGN ISSUE IN 1974. SINCE LABOR WON THAT ELECTION, CONNOR NOW CLAIMS GOA HAS "MANDATE" TO REINTRODUCE BILL. PMA HAD FY1975 BUDGET OF A\$50 MILLION, MOST OF WHICH IT HAS NOT YET SPENT. ITS RELATIVELY MODEST ACTIVITIES TO DATE HAVE MAINLY BEEN TO DISPLACE FOREIGN COMPANIES AS PART-OWNERS OF DELHI OIL, WAMBO COAL AND MAREEBA COPPER PROJECTS AND TO FINANCE A COAL EXPLORATION PROGRAM IN NSW. OPPOSITION PARTIES AND MINING INDUSTRY HAVE ADAMANTLY OPPOSED PMA AS THREAT TO "STATES' RIGHTS" AND "PRIVATE ENTERPRISE".

5. COURT DECISION MAY PROVE ONLY MINOR SET-BACK FOR GOA. IT SEEMS CLEAR THAT, DUE TO PECULIARITIES OF AUST. LEGAL SYSTEM, CONNOR IS CORRECT IN CLAIMING THAT GOA WILL BE ABLE TO CONTINUE LIMITED OFFICIAL USE

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OPERATING AS THOUGH PMA WERE STILL IN BUSINESS. MORE IMPORTANTLY, SINCE COURT INVALIDATED PMA ACT ONLY ON PROCEDURAL GROUNDS, IT IS PROBABLE THAT COURT WOULD UPHOLD CONSTITUTIONALITY OF SAME BILL ONCE IT IS PROPERLY ENACTED. HOWEVER, THAT MAY PROVIDE SMALL COMFORT TO CRITICS OF PMA SINCE GOA WILL EVIDENTLY BE ABLE TO DO WHAT IT WISHES IN THIS AREA WITHOUT ANY SPECIFIC ENABLING LEGISLATION. SOMEWHAT IRONICALLY, CONNOR SEEMS DETERMINED TO PASS ACT WHICH HE ALSO CLAIMS IS NOT ESSENTIAL TO HIS

OBJECTIVES.

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